

1
2
3
4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 RONALD RICHARD BROWN,

8 Petitioner,

9 vs.

10 DONALD HOLBROOK,

11 Respondent.

NO. 2:20-cv-01753-RSM

ORDER DENYING PETITIONER'S
MOTION TO ALTER OR AMEND
JUDGMENT

12 This matter comes before the Court on Petitioner Ronald Richard Brown's Motion to
13 Alter or Amend. Dkt. #19. Mr. Brown moves the Court pursuant to Rule 59(e) to alter or
14 amend the Court's prior judgment dismissing this case "to correct manifest errors of law and
15 fact and to correct a gross miscarriage of justice." *Id.* at 1. The Court adopted the Report and
16 Recommendation of Magistrate Judge Tsuchida recommending dismissal due to the
17 untimeliness of Petitioner's §2254 petition. Dkts. #11 and #15. Petitioner now argues, as he
18 did in his Objections to the Report and Recommendation, that his counsel had an extra day to
19 file this petition due to 2020 being a leap year. *See* Dkt. #19 at 3–4. He discusses the
20 "extraordinary circumstance" of the COVID-19 pandemic, as was discussed in his Objections.
21 *Id.* at 4–5. He argues that his attorney's negligence in filing late constitutes extraordinary
22 circumstances warranting the requested relief. *Id.* at 7–10. This too was discussed previously.

23
24
25 A district court has considerable discretion when considering a motion to alter or amend a
26

1 judgment under Rule 59(e). *Turner v. Burlington N. Santa Fe R. Co.*, 338 F.3d 1058, 1063 (9th
2 Cir. 2003). A motion for relief from judgment under Rule 59(e) should be granted when the
3 Court: “(1) is presented with newly discovered evidence; (2) committed clear error or the initial
4 decision was manifestly unjust; or (3) if there is an intervening change in the controlling law.”
5 *In re Syncor ERISA Litigation*, 516 F.3d 1095, 1100 (9th Cir. 2008) (citation omitted). Vacating
6 a prior judgment under Rule 59(e) is an “extraordinary remedy, to be used sparingly in the
7 interests of finality and conservation of judicial resources.” *Carroll v. Nakatani*, 342 F.3d 934,
8 945 (9th Cir. 2003).

9
10 Mr. Brown does not offer newly discovered evidence or argue that there has been an
11 intervening change in controlling law. Instead, he argues manifest error. Mr. Brown
12 essentially repeats the same arguments, albeit with greater detail and new legal citation. The
13 Court has reviewed the prior rulings in this case and finds no clear error. Although the Court
14 prefers to rule on the merits of cases rather than procedure, the outcome here is not manifestly
15 unjust given the reasons set forth by Judge Tsuchida. *See* Dkt. #11 at 5–6 (discussing equitable
16 tolling), at 7 (discussing attorney abandonment cases), and at 8 (discussing “actual innocence”
17 exception). Accordingly, relief under Rule 59(e) is not warranted.

18
19 Having reviewed the relevant briefing and the remainder of the record, the Court hereby
20 finds and ORDERS that Petitioner Brown’s Motion to Alter or Amend, Dkt. #19, is DENIED.

21
22 DATED this 13th day of July, 2021.

23
24 

25 RICARDO S. MARTINEZ
26 CHIEF UNITED STATES DISTRICT JUDGE